IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11-12-2007

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.Nos.6291 and 23542 of 2007
and
MP No.2 of 2007 in WP 23542 of 2007

Bharathiyar Industrial Training
Centre
Rep. By its Correspondent
R.S.Road
Gudiyattam 632 602,
Vellore. .. Petitioner in both petitions

vs

1.The Directorate General of
Employment & Training
Sharam Shakti Bhavan
Rafi Marg, New Delhi 110 001.

2.The Commissioner of Employment
and Training
Guindy, Chennai 32.

3.The Regional Joint Director
Employment and Training
Chennai Region,
Guindy, Chennai 32. .. Respondents in WP No.6291/2007

4.The Commissioner of
Employment and Training
Guindy, Chennai 32.

5.The Joint Director
Employment and Training (CTS),
Guindy, Chennai 32. .. Respondents in WP No.23542/2007

WP No.6291/2007 filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records relating to the proceedings in Na.Ka.72070/Kai.Pa.4/03 dated 14.12.2005 passed by the 2nd respondent and quash the same and direct the respondents to approve the admission of the students in fitter trade for the academic year 2005.

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WP No.23542/2007 filed under Article 226 of the Constitution of India praying for a writ of mandamus to direct the respondents to permit the students of the petitioner institute admitted in August 2005 to write All India Trade Exams (NCVT) Fitter Trade and to publish the results and issue certificates of those examinations.

For Petitioner : Mr.Vijayanarayanan
Senior Counsel
for Mr.S.Kamadevan

For Respondents : Mrs.Soundaravalli Sekar
Additional Government
Pleader for RR2 & 3 in
WP 6291/2007 and
for RR1 & 2 in
WP 23542/2007

COMMON ORDER

This order shall govern these two writ petitions in WP Nos.6291 and 23542 of 2007. The former has been brought forth seeking a writ of certiorarified mandamus to quash the order of the second respondent and to direct the respondents to approve the admission of the students in fitter trade for the academic year 2005, while the latter is filed seeking a writ of mandamus to direct the respondents to permit the students of the petitioner institute admitted in August 2005, to write All India Trade Exams (NCVT) Fitter Trade and to publish the results and issue certificates of those examinations.

2.The affidavits in support of both the petitions and the counter affidavit are looked into. The Court heard the learned Counsel on either side.

3.It is not in controversy that the petitioner, an Industrial Training Institute, established in 1998, was granted approval by the Director General of Employment and Training, New Delhi, in the year 1999; thereby, it has been conducting the course. According to the petitioner, there was a change of management, and only after the indication of the need in the correspondence addressed by the management, the authorities have arrived at a misconception that the location of the institute has been shifted; but, it is incorrect, and during 2005, when the respondents refused to issue the hall tickets to the students, the petitioner filed a writ petition in WP No.22836/2005 seeking permission of this Court to conduct the exams scheduled in 2005, and another writ petition was also filed for the publication of results, and pursuant to the orders passed therein, they were allowed to write examination, and they have also passed.

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4.It is the further case of the petitioner that in continuation of the proceedings dated 14.12.2005, suitable explanation was also submitted; but, the authorities were not satisfied with the explanation tendered; that while the matter stood thus, there was a direction issued by the respondents, not to admit the students from 2005 onwards; that under the circumstances, the first writ petition came to be filed in WP No.6291/2007 seeking to quash that order; that the second writ petition came to be filed in WP No.23542/2007, since pursuant to the orders of the Court, students were admitted for the two years course, stating that they should be permitted to writ the examination, and further, the respondents should be directed to publish the results; that after the filing of the second writ petition, the Court passed an interim order permitting the students to write the examination, and now, the results have got to be published and the certificates be issued.

5.The learned Senior Counsel for the petitioner reiterated the averments found in the petition and would submit that in the instant case, once de-affiliation has been granted, it was a misconception by the respondents as to the location of the institute as if it was shifted, which was factually incorrect; that though the inspection was proposed and the readiness and willingness of the management was also intimated, the respondents have not made any inspection; but, on the contrary, it has first directed the petitioner Institute not to admit the students from the year 2005; that pursuant to the orders of the Court, they were permitted; that now, the students have written the examination; and that while they wrote the exams, there cannot be any impediment for publishing the results.

6.Relying on Rule 10 of the Appendix XX of the Training Manual for Industrial Training Institutes and Centres, the learned Senior Counsel would submit that even assuming that there is a de-affiliation, it should not affect the batch of students who are undergoing the training at present; and that even if the said rule is given application, considering the circumstances, they should be permitted to write the examination, and the results have got to be published.

7.The Court heard the learned Additional Government Pleader on the above contentions.

8.As far as the first writ petition in WP No.6291/2007 was concerned, it was actually to quash the order restraining the petitioner institute from admitting the students from 2005 onwards. Pursuant to the orders of the Court, a batch of students were admitted in 2005, and they have also written the examination. Under the circumstances, this Court is of the considered opinion that no meaningful relief could be granted in this petition at this stage. Hence, WP No.6291/2007 has got to be disposed of accordingly.

9.As regards the second writ petition in WP No.23542/2007, it is for a writ of mandamus to direct the respondents to permit the students of the petitioner institute admitted in August 2005, to write All India Trade Exams (NCVT) Fitter Trade and also to publish results thereon and issue certificates. In the instant case, after the filing of the above writ petition, pursuant to the orders of the Court, a batch of students who

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were admitted in 2005, were allowed to write the examination in 2007. Accordingly, they have written, and now, the results have got to be published. Now, at this juncture, it would be apt and appropriate to reproduce Rule 10 of the Appendix XX of the Training Manual for Industrial Training Institutes and Centres as follows:

> "10.From the date of the issue of such an order by the State Director, the relevant trades/units will stand de-affiliated. However, the existing batch of trainees, if otherwise eligible, should be permitted by the State Director to appear in the ensuing All India Trade Test. Further admission of trainees should be stopped from the next session onwards."

10.From the very reading of the said Rule, it would be quite clear that even after de-affiliation came into force, the existing batch of trainees, if otherwise eligible, should be permitted to appear in the ensuing All India Trade Test. It could be further added that once they are allowed to appear in the examination, if otherwise eligible, the outcome of such examination should be made known. Further, it is not the case of the respondents that those students were otherwise not eligible. Under the circumstances, the Court considered the situation and permitted the management to admit the students in 2005. That apart, the students were also allowed to write the examination, and they have written the exams. It is further to be pointed out that further admission of trainees has been stopped by the management. Now, according to the petitioner, an inspection is proposed; but, it has not yet taken place. Under the circumstances, it would be fit and proper to issue a direction to the respondents to publish the results of the examination in respect of the students of 2005 batch, who wrote the examination pursuant to the orders of the Court, and to issue the certificates. Accordingly, a direction is issued. There is no impediment for the respondents to make necessary inspection thereon and pass suitable orders as one required under the circumstances and as the law would also require so.

11.Accordingly, both the writ petitions are disposed of. No costs. Consequently, connected MP is closed.

nsv/

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To:

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Employment & Training
Sharam Shakti Bhavan
Rafi Marg, New Delhi 110 001.

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Guindy, Chennai 32.

4.The Joint Director
Employment and Training (CTS),
Guindy, Chennai 32.

+2 ccs to The Government Pleader Sr.No.73300,73301.

+1 cc to Patty.B.Jaganathan, Advocate Sr.No.73187.

+2 ccs to Mr.S.Kamadevan, Advocate Sr.No.73468,73470.

SSK(CO)
DCP/18.12 WP Nos.6291 and 23542 of 2007

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